

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed November 30, 2004. Claims 1-31 were pending in the Application and stand rejected. Applicant respectfully requests reconsideration and favorable action in this case.

Requirement for Information

The Examiner requested under 37 C.F.R. 1.105 that Applicant provide documentation disclosing TIA standards IS-130 and IS-135. A Copy of Standards TIA/EIA-136-310 (the current version of IS-130, see revision history, page v) and TIA/EIA-136-350-C (the current version of IS-135, see revision history, page 1) are included with the PTO Form 1449 with enclosed references.

Claim Rejections – 35 U.S.C. §103

The Proposed Malik-Simpson Combination Fails to Teach or Suggest All Elements of Claims 1, 2, 8, 9, 18, 19, 25 and 26; The Malik-Simpson Combination is Improper, and the Two References Are Non-Analogous.

The Examiner rejects Claims 1, 2, 8, 9, 18, 19, 25, and 26 under 35 U.S.C. §103(a) as being unpatentable over Malik, U.S. Patent No. 6,104,505 (“Malik”), in view of Simpson, W., RFC 1661 - The Point-to-Point Protocol (PPP), July 1994, Network Working Group (RFC 1661) (“Simpson”). Applicant respectfully traverses and submits that there is no motivation to combine Malik and Simpson as suggested by the Examiner.

The Simpson reference is a request for comment document related to the Point-to-Point Protocol (PPP). *See Simpson*, page 1. Malik deals generally with facsimile communications. Malik’s only relation to the Point-to-Point Protocol appears to be a characterization of facsimile machines as “point-to-point” communications devices. Specifically, Malik states: “Conventional facsimile machines are configured to operate as “point-to-point” communications devices and serve to send only information that is scanned into a source facsimile.” *Malik* at col. 1, lines 42-45. However, Malik’s use of the phrase “point-to-point” in no way implicates the Point-to-Point Protocol dealt with in Simpson. These two references are clearly non-analogous, and the proposed combination is improper.

In addition, even if the combination were proper, the Malik-Simpson combination fails to teach or suggest all elements of Applicant's claims. Among other limitations, each of Independent Claims 1, 8, 18, and 25 recite an element or step that includes the encapsulation of "PPP data as a payload of a facsimile page transmission."

The Examiner has indicated that Malik does not specifically teach that any data is PPP data. Instead, the Examiner argues that Malik and Simpson should be combined because Simpson's "teaching of PPP enables Malik's apparatus to take advantage of the easy configuration of establishing PPP links (LCP) and to transport packet between peer devices using PPP." *Office Action* at p. 4.

Applicant submits that the Examiner's suggested combination of Simpson and Malik is unclear as to how the teachings of Simpson would be adopted by Malik. Assuming for arguments sake that the proposed combination were attempted, it is unclear whether Malik would 1) adopt PPP and utilize LCP (and thereby no-longer send data as a facsimile message) or 2) further encapsulate PPP data within the data encapsulation scheme described by Malik.

Applicant submits that the first alternative fails to teach encapsulating "PPP data as a payload of a facsimile transmission" because a shift from facsimile transmission to PPP transmission would no longer include sending the PPP data as a facsimile transmission. As such, this combination of Malik and Simpson would not render obvious Independent Claims 1, 8, 15, 18 and 25 because it fails to teach or suggest all the claimed limitations.

If the Examiner is instead suggesting that one of skill in the art would encapsulate PPP data within the encapsulation scheme of Malik, Applicant respectfully traverses. PPP data, as detailed by Simpson, is already encapsulated and ready for transmission between point-to-point links. Applicant submits that one of skill in the art would not be motivated to further encapsulate PPP data and send the PPP data using a facsimile transmission. Instead, for information already formed as PPP data, one of skill in the art would instead look to send the PPP data directly using point-to-point protocol, without further encapsulation. Accordingly, there is no motivation in either reference to make the combination suggested by the Examiner.

For at least these reasons, Applicant requests that the Examiner reconsider and withdraw the rejection and allow Claims 1, 8, 18 and 25 and there respective dependent claims.

Claim 5 is Allowable Over the Proposed Combination

The Examiner rejects Claim 5 under 35 U.S.C. §103(a) as being unpatentable over Malik and Simpson in view of U.S. Patent 5,673,190 issued to Kahleck ("Kahleck"). Claim 5 depends from Claim 1, which was shown above to be allowable over the proposed Malik-Simpson combination. Kahleck fails to provide any of the elements of Claim 1 that are not disclosed by the Malik-Simpson combination. Moreover, the proposed combination of Malik, Simpson, and Kahleck is improper for the reasons discussed above. For at least these reasons, Applicant requests that the Examiner reconsider and withdraw the rejection and allow of Claim 5.

Claims 3, 4, 7, 10, 11, 13, 14, 17, 20, 21, 23, 24, 27, 28, 30, and 31 are Allowable Over the Proposed Combination

The Examiner rejects Claims 3, 4, 7, 10, 11, 13, 14, 17, 20, 21, 23, 24, 27, 28, 30, and 31 under 35 U.S.C. §103(a) as being unpatentable over Malik and Simpson in view of U.S. Patent 5,854,830 issued to Kenmochi ("Kenmochi"). These claims depend from independent claims that are shown above to be allowable over the proposed Malik-Simpson combination. Kenmochi fails to provide any of the elements of the independent claims that are not disclosed by the Malik-Simpson combination. Moreover, the proposed combination of Malik, Simpson, and Kenmochi is improper for the reasons discussed above. For at least these reasons, Applicant requests that the Examiner reconsider and withdraw the rejection and allow of Claims 3, 4, 7, 10, 11, 13, 14, 17, 20, 21, 23, 24, 27, 28, 30, and 31.

Claims 6-7, 12-13, 22-23 and 29-30 are Allowable Over the Proposed Combination

The Examiner rejects Claims 6-7, 12-13, 22-23 and 29-30 under 35 U.S.C. §103(a) as being unpatentable over Malik and Simpson in view of the Examiner's personal knowledge. Applicant submits that Claims 6-7, 12-13, 22-23 and 29-30 depend from independent claims that are shown above to be allowable over the proposed Malik-Simpson combination. The Examiner's assertions of personal knowledge fail to add any of the elements of the independent claims that are not shown by Malik or Simpson. Therefore, Applicant requests that the Examiner reconsider and withdraw the rejection under 35 U.S.C. 103(a) and fully allow Claims 6-7, 12-13, 22-23 and 29-30. Furthermore, to the extent that the Examiner maintains this assertion based on "Official Notice," "well known prior art," "common

knowledge,” or other information within the Examiner’s personal knowledge, Applicant respectfully requests that the Examiner cite a reference in support of this position or provide an affidavit in accordance with M.P.E.P. § 2144.03 and 37 C.F.R. § 1.104(d)(2).

Claim 15 is Allowable Over the Proposed Combination

The Examiner rejects Claim 15 under 35 U.S.C. §103(a) as being unpatentable over Malik in view of Simpson. For analogous reasons as those discussed above with regard to independent Claims 1, 8, 18 and 25, the proposed combination fails to teach or suggest every element of Claim 15, and there is no motivation to make the proposed combination. For at least these reasons, Applicant requests that the Examiner reconsider and withdraw the rejection and allow Claim 15.

Claim 16 is Allowable Over the Proposed Combination

The Examiner rejects Claim 16 under 35 U.S.C. §103(a) as being unpatentable over Malik and Simpson in view of U.S. Patent 6,330,499 issued to Chou et al (“Chou”). Claim 16 depends from Claim 15, which is shown above to be allowable over the proposed Malik-Simpson combination. Chou fails to provide any of the elements of the Claim 16 not disclosed by the Malik-Simpson combination. Moreover, the proposed combination of Malik, Simpson, and Chou is improper for the reasons discussed above. For at least these reasons, Applicant requests that the Examiner reconsider and withdraw the rejection and allow of Claim 16.

CONCLUSION

Applicant has made an earnest attempt to place the Application in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicant respectfully requests full allowance of all pending claims. If the Examiner feels that a telephone conference or an interview would advance prosecution of the Application in any manner, the undersigned attorney for Applicant stands ready to conduct such a conference at the convenience of the Examiner.

Although no fees are believed to be currently due, the Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.
Attorneys for Applicant

A handwritten signature in black ink, appearing to read 'Kurt M. Pankratz', with a stylized flourish at the end.

Kurt M. Pankratz
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Date: February 28, 2005

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